IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5567 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL BIPINCHANDRA LAXMANBHAI - Petitioner(s)
Versus
JOINT DIRECTOR & 2 - Respondent(s)

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Appearance :
MR YN OZA for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1 - 2.
Mr. Dipen Desai, Asst. GOVERNMENT PLEADER for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 18/04/2007

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner has

prayed for an appropriate writ, order or direction directing the respondents not to terminate the services of the petitioner and to allow the petitioner to work as 'Craft Instructor (Electrician)' without any disturbance. It is also further prayed for an appropriate order directing the respondent No.2 to pay salary to the petitioner due from January 1996 and to go on paying salary to the petitioner. It is also further prayed for an appropriate order directing the respondents to absorb the petitioner in any other Technical Institute or in any other Government service as per his qualification.

2. It appears from the record that the petitioner preferred the present Special Civil Application on apprehended termination. While admitting the present Special Civil Application, no interim relief was granted by this Court. Shri Dipen Desai, learned AGP, under instruction from one R.B. Mohaniya, Legal Officer of respondent No.1, has submitted that after the

present Special Civil Application was filed the services of the petitioner have been terminated on the ground that affiliation to the Course was not approved by the Central Government/Director General of Employment and Training. It is also further submitted by him that the petitioner has not challenged the said order of termination and/or the decision of the Central Government in not granting affiliation to the aforesaid Course meaning thereby he has accepted the same. Considering the above, so far as the prayer in terms of paragraph 18(b) is concerned, the same has become infructuous. So far as another prayer of the petitioner directing the respondent No.2 to pay salary to the petitioner due from January 1996 is concerned, it is the case on behalf of the petitioner in the petition that the respondent No.2 was getting 100% Grant and appointment of the petitioner was approved by the competent authority. It appears that the Grant in favour of the respondent No.2 has not been released by the Central Government on the ground that affiliation to the Course was not

approved by the Central Government. Nothing is on record to show that the Central Government has ever paid the Grant more particularly Salary Grant of the petitioner to the respondent No.2. Under the circumstances, in absence of any such evidence and averment, no relief is required to be granted.

3. So far as another prayer of the petitioner directing the respondents to absorb the petitioner in any other Technical Institute or in any other Government service as per his qualification is concerned, the learned counsel appearing on behalf of the petitioner has failed to establish any right in favour of the petitioner with regard to such absorption. He has also failed to produce on record any policy and/or resolution of the Central Government by which the petitioner is to be absorbed in any other Government service. In absence of any Government and/or resolution, such a relief cannot be granted.

4. For the reasons stated above, the petition

fails. Rule is discharged. However, there shall be no order as to costs.

[M.R. Shah, J.]

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